

Scott Zarin, Esq.
Zarin & Associates, P.C.
One Penn Plaza, Suite 4615
New York, New York 10119
scottzarin@copyrighttrademarkcounsel.com
Tel: (212) 580-3131 * Fax: (212) 580-4393

August 8, 2014

Via ECF

Honorable John F. Keenan
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Jackson v. Odenat*/S.D.N.Y. 09-5583

Dear Judge Keenan:

I represent Defendants Lee Q. Odenat ("Odenat"), Worldstar Hip Hop, Inc. ("Worldstar Hip Hop"), Worldstar, LLC ("Worldstar") and WSHH337, LLC ("WSHH337") (collectively "Defendants") in the above-referenced action. I write, pursuant to Your Honor's Individual Practice Rule 2(A), to request a pre-motion conference in anticipation of filing a number of motions *in limine* in advance of trial, for which the Court has set a 'ready for trial' date of October 8, 2014.

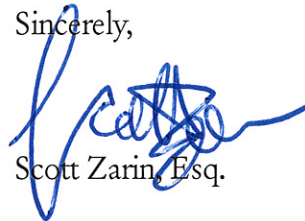
Defendants intend to move *in limine* to exclude from trial the following evidence: (1) the expert report and testimony of Aram Sinnreich; (2) the expert report and testimony of Jon Albert-Levy; (3) all licensing agreements produced by Plaintiffs in which Plaintiff Jackson grants third-parties licenses to employ his image and trademarks; (4) all testimony of witnesses Plaintiff Jackson, Sharon Salamone and Christopher Singh regarding actual confusion by third-parties; and (5) the transcript of an interview purportedly conducted by radio host Hanif Williams with Defendant Odenat.

Neither the Court's Individual Practice Rules nor its Pre-Trial Requirements, which the Court issued on August 4, 2014, set forth a timetable for filing motions *in limine* in advance of trial. Because the issues implicated by Defendants' requests to exclude some of the aforementioned pieces of evidence are somewhat complicated, however, Defendants believe it would be in the best interest of the Court to set up a briefing schedule which provides it with ample time before trial to consider their arguments, in addition to providing the parties' with adequate time to brief the issues. In particular, Defendants' motion to exclude the expert report and testimony of Jon Albert-Levy, who has provided an opinion

regarding the fair market value of licenses of Plaintiffs Jackson's image and trademarks, requires the Court to rule upon a number of novel questions of law; specifically, whether Plaintiffs are entitled to recover a licensing fee as compensatory damages on their right to publicity claim under New York Civil Rights Law §§50, 51 and, if so, what standards govern the determination of a licensing fee by the fact-finder. Accordingly, considering the 'ready for trial' date is October 8, 2014, Defendants request the Court to schedule a pre-motion conference on their proposed motions *in limine* as soon as practicable.

I am aware that the Court has referred all pre-trial motions to Magistrate Judge Gorenstein for adjudication (D.E. 13), but I have directed this letter to Your Honor because it is not clear to me whether, as motions related to evidence admissible at trial, motions *in limine* are the type of pre-trial motions which the Court intended to refer to Magistrate Judge Gorenstein. If indeed the Court intended for motions *in limine* to be resolved by Magistrate Judge Gorenstein, I would be pleased to redirect this letter to him. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Scott Zarin', with a stylized flourish extending to the right.

Scott Zarin, Esq.

cc: Karen Stetson, Esq. (via e-mail)
John Fazzio, Esq. (via e-mail)